

December 6, 2018

Ronald D. Vitiello

Deputy Director and Senior Office Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, D.C. 20536

Dear Deputy Director Vitiello:

Thank you for your October 16th response to our letter regarding the use of facial recognition technology by the U.S. Immigration and Customs Enforcement agency. In your response, you stated that ICE has "limited facial recognition capabilities throughout the course of enforcement activities via U.S. Customs and Border Protection (CBP) Automated Targeting System-Passenger (ATS-P) and the U.S. Department of State's Consular Consolidated Database (CCD)," and does not conduct audits of these systems, though they are monitored by CBP and DOS. We would like further information detailing ICE's use of these technologies. Please answer the following questions at your earliest convenience, and please respond no later than January 4, 2019.

1. For what type of enforcement activities does ICE utilize face recognition capabilities via CBP, Department of State, or other partner systems?
 - a. Please specify whether ICE utilizes this system for criminal or immigration enforcement, and what, if any, specific criminal investigations the system is utilized for.
2. Please describe how ICE obtains or requests facial recognition capabilities through ATS-P and CCD.
 - a. For example, who provides probe photos, what agencies conducts any matching, and what agencies receive the results of any matching?
3. How many facial recognition searches has ICE requested via ATS-P and CCD since January 1, 2017?
4. Please describe how ICE confirms that matches or identifications by any facial recognition systems are correct before taking further action.

- a. Please describe how, if any way, inaccurate results are maintained by any face recognition systems.
5. What evidentiary standard, if any, must be met for ICE to utilize facial recognition capabilities through ATS-P and CCD?
 - a. What, if any, limits are placed on which probe photos can be submitted for face recognition matching?
6. Does ICE share its photo databases with any other federal, state, or local agencies, including departments of motor vehicles, for facial recognition matching use?
 - a. Does ICE ever submit photos to the facial recognition systems of other federal, state, or local agencies, including departments of motor vehicles, so that those agencies can run facial recognition searches of their systems using ICE-submitted photos?
7. Please provide all policies and procedures related to ICE's use of facial recognition capabilities through ATS-P and CCS or any other mechanism.

Recent news reports also suggest that ICE has met with vendors regarding potentially acquiring additional facial recognition capabilities. Please provide the following information:

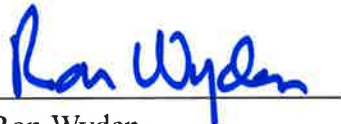
1. Does ICE have plans to acquire additional facial recognition capabilities, either on its own or through other agencies?
 - a. Has ICE issued any RFPs for facial recognition technologies?
2. Does ICE have Memorandums Of Understanding (MOU) with any other agencies, including local law enforcement agencies, regarding obtaining facial recognition capabilities?
 - a. If so, please provide those MOUs.
3. Please provide a complete list of cases for which ICE has explored acquiring facial recognition technology.
4. Please provide a list of vendors that ICE has met with since January 1, 2018 regarding acquiring or using facial recognition technology.
 - a. Please include any relevant agendas, materials, or follow-up communications regarding these meetings.
5. Has ICE obtained a legal opinion from the General Counsel's office regarding whether existing or potential future uses of facial recognition technology would be lawful?

In your October 16th response, you also stated that under ICE's "Alternatives to Detention Intensive Supervision Appearance Program (III) (ATD-ISAPIII), a new form of contractors-owned technology has been introduced that uses facial recognition software known as SmartLINK."

1. When did BI, the provider of ISAPIII, begin deploying SmartLINK at ICE's request?
 - a. What percent of and how many ISAPIII enrollees are using SmartLINK at any given time?
 - b. How do the enrollees access SmartLINK; are they required to use their personal devices or does ICE provide smartphones or computers to enrollees?
2. What information does ICE and BI collect on enrollees using SmartLINK?
 - a. How long is that information retained?
 - b. Who has access to that information and under what conditions?
 - c. What limitations exist, if any, on the use of that information?
3. What, if any, information is provided to enrollees using SmartLINK regarding the confidentiality of their data and any limitations on the use of their data?
4. Please provide any additional documentation in ICE's possession on the deployment of the SmartLINK technology in the context of ISAPIII.

Thank you for your prompt attention to this matter. For any questions, please contact Zarinah Mustafa on Senator Wyden's staff at 202-224-5244.

Sincerely,



Ron Wyden
United States Senator



Edward J. Markey
United States Senator



Cory A. Booker
United States Senator